

UNITED STATES DISTRICT  
COURT SOUTHERN DISTRICT OF  
NEW YORK

ASSOCIATED INDUSTRIES INSURANCE  
COMPANY, INC.,

Plaintiff,

-against-

WACHTEL MISSRY LLP and HOWARD  
KLEINHENDLER,

Defendants.

Civ. No. 1:21-cv-03624-LGS

**[PROPOSED] JUDGMENT  
SUBMITTED JOINTLY BY PLAINTIFF ASSOCIATED INDUSTRIES INSURANCE  
COMPANY AND DEFENDANT HOWARD KLEINHENDLER**

Pursuant to the Court’s December 23, 2022 Order [dkt. 92], Plaintiff, Associated Industries Insurance Company, Inc. (“Associated”), and Defendant, Howard Kleinhendler (“Kleinhendler”), hereby submit this joint proposed form of Judgment.

LORNA G. SCHOFIELD, District Judge:

WHEREAS, on September 8, 2022, the Court entered an Opinion and Order [dkt. 67], granting the motion for judgment on the pleadings filed by Plaintiff Associated Industries Insurance Company, Inc. (“Associated”) as to Associated’s Third Claim for Relief, subject to certain affirmative defenses raised by Defendants that the Court determined may remain viable, including “statute of limitations, laches, waiver and/or equitable estoppel (Second); Plaintiff’s inequitable or wrongful conduct (Third); unclean hands (Fourth); and subject matter jurisdiction (Eighth)” [see dkt. 67 at 14].

WHEREAS, the September 8, 2022 Order dismissed Associated’s First, Second, Fourth and Fifth Claims for Relief and dismissed Defendants’ Counterclaims as moot.

WHEREAS, the Court directed the parties to file certain letters addressing any remaining affirmative defenses, which the Court then deemed to constitute cross-motions for summary judgment regarding those affirmative defenses [*see* dkt. 77]; and

WHEREAS, on December 23, 2022, the Court entered an Order [Dkt. 92] granting Associated's cross-motion for summary judgment regarding the affirmative defenses, and denying the cross-motion of Defendant Howard Kleinhendler ("Mr. Kleinhendler"). It is hereby

**ORDERED** that the Clerk enter a JUDGMENT in favor of Plaintiff, Associated Industries Insurance Company, and against Defendant, Howard Kleinhendler, on Plaintiff's Third Claim for Relief. It is further

**ORDERED** that the Clerk enter a JUDGMENT in favor of Plaintiff, Associated Industries Insurance Company, and against Defendant, Howard Kleinhendler, on Mr. Kleinhendler's Second Affirmative Defense. In addition, because Mr. Kleinhendler did not raise his Third, Fourth, and/or Eighth Affirmative Defenses on the Parties' cross-motions for summary judgment, those defenses are dismissed. Therefore, it is further

**ORDERED** that Defendant, Howard Kleinhendler's Third, Fourth, and Eighth Affirmative Defenses are DISMISSED. As the foregoing fully disposes of all matters presently before the Court, it is hereby

**ORDERED** that the clerk enter a FINAL JUDGMENT in favor of Plaintiff, Associated Industries Insurance Company and against Defendant, Howard Kleinhendler.

Dated: January \_\_, 2023  
New York, New York

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**LORNA G. SCHOFIELD**  
**UNITED STATES DISTRICT JUDGE**

Dated: January 4, 2023

Respectfully submitted,

/s/ April H. Gassler

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